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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,745	10/20/2003	Gordon Rouleau	DLGMO-013XX	9250

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EXAMINER	
DENNISON, JERRY B	
ART UNIT	PAPER NUMBER
2143	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/687,745	ROULEAU, GORDON	
	Examiner	Art Unit	
	J. Bret Dennison	2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *20 May 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-16* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

RESPONSE TO AMENDMENT

1. This Action is in response to the Amendment for Application Number 10/687,745 received on 5/20/2008.

2. Claims 1-16 are presented for examination.

3. The prosecution for this case has been transferred to another Examiner. All corresponding communications should be directed to Examiner's contact information, provided below.

Response to Amendment

4. Applicant's arguments and amendments filed on 5/20/2008 have been carefully considered but they are not deemed fully persuasive. Applicant's arguments are deemed moot in view of the following new grounds of rejection as explained here below, necessitated by Applicant's substantial amendment (i.e., *by incorporating new limitations into the independent claims, which require further search and consideration*) to the claims which significantly affected the scope thereof.

As shown in the above rejection, the Chaganty reference positively recites the limitation of sending the packets with the new datalink layer address to the backup device, along with the rest of the limitations of the independent claims.

It is the Examiner's position that Applicant has not yet submitted claims drawn to limitations, which define the operation and apparatus of Applicant's disclosed invention in manner, which distinguishes over the prior art.

Failure for Applicant to significantly narrow definition/scope of the claims and supply arguments commensurate in scope with the claims implies the Applicant intends broad interpretation be given to the claims. The Examiner has interpreted the claims with scope parallel to the Applicant in the response and reiterates the need for the Applicant to more clearly and distinctly define the claimed invention.

Claim Rejections - 35 USC § 102

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Chaganty et al. (US 7,055,173).

6. Regarding claim 1, Chaganty disclosed, in a primary access device (Chaganty, Fig. 3, flowswitch 302) connecting a first network to a second network over a primary connection (Chaganty, col. 3, lines 15-20, Chaganty disclosed the

switch connecting the enterprise network to a network such as the Internet), a method for providing a backup connection between said first network and said second network, said method comprising:

detecting a failure in said primary connection (Chaganty, col. 7, lines 3-6, flowswitch 302 detects that a firewall has failed; lines 29-30, for example, the primary connection for server 106 is firewall 202, the flowswitch detects that firewall 202 has failed);

receiving, at said primary access device, a data packet originating from said first network and having a destination address at the ISO datalink layer 2 (Chaganty, col. 7, lines 26-28, "flowswitch 302 detects a packet from server 106 with the MAC address of the failed firewall 202);

replacing, in said data packet, said destination address with a backup access device datalink address identifying a backup access device capable of providing said backup connection (Chaganty, col. 7, lines 29-33, Chaganty disclosed the flowswitch rewriting the MAC address of the failed firewall 202 to the MAC address of functioning firewall 104); and

retransmitting, by said primary access device, said data packet with said replaced destination address to said backup access device over said first network (Chaganty, col. 7, lines 33-34, Chaganty disclosed "relaying the packet to firewall 104"),

whereby said replacing of said destination address with said backup access device datalink address enables a transmittal of said received data

packet to said second network over said backup connection (Chaganty, col. 7, lines 33-34).

Claim 11 includes a backup system performing the limitations substantially as claimed in claim 1. The system of Chaganty is clearly a backup system since one firewall replaces another as shown in the above rejection. Therefore, claim 11 is rejected under the same rationale as claim 1.

7. Regarding claims 2 and 13, Chaganty disclosed the limitations as described in claims 1 and 11, including wherein said first network is a local area network (LAN) (Chaganty, col. 17, lines 48-52, firewall provides access between a LAN and a WAN, i.e. Internet).

8. Regarding claims 3 and 14, Chaganty disclosed the limitations as described in claims 1 and 11, including wherein said second network is a wide area network (WAN) (Chaganty, col. 17, lines 48-52, firewall provides access between a LAN and a WAN, i.e. Internet).

9. Regarding claims 4 and 12, Chaganty disclosed the limitations as described in claims 1 and 11, including wherein said local area network is an Ethemet-like network (Chaganty, col. 3, lines 20-21).

10. Regarding claim 5, Chaganty disclosed the limitations as described in claim 1, including wherein said wide area network is an IP-based network (Chaganty, col. 3, lines 15-16).

11. Regarding claim 7, Chaganty disclosed the limitations as described in claim 4, including, before the step of replacing, performing an ARP request by the primary access device and further wherein said i backup access device datalink address is provided by said backup access device in response to said ARP request (Chaganty, col. 4, lines 11-17, Chaganty disclosed the switch sending ARP requests to all of the firewalls periodically).

12. Regarding claim 8, Chaganty disclosed the limitations as described in claim 5, including wherein said backup access device IP network station address is provided to said primary access device at a predetermined time (Chaganty, col. 3, lines 15-20).

13. Regarding claim 10, Chaganty disclosed the limitations as described in claim 5, including creating a direct ISO layer 2 datalink connection via the first network between said primary access device and said backup access device and further providing said data packet having said destination address replaced with said backup access device datalink address to said backup access device using said direct ISO layer 2 datalink connection (Chaganty, col. 3, lines 55-67).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

14. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chaganty et al. (US 7,055,173) in view of Cohen et al. (US 6,389,462).

15. Regarding claim 6, Chaganty disclosed the limitations as described in claim 1.

While Chaganty disclosed a data packet coming from a LAN to a WAN, Chaganty did not explicitly state the data packet being a domain name server request.

In an analogous art, Cohen disclosed clients connected to a LAN sending DNS requests through the Internet (Cohen, col. 6, lines 22-30 and 46-54).

Since Cohen disclosed sending a DNS request from a LAN to a WAN, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the sending of DNS requests through the LAN/WAN system of Chaganty in order provide clients browsing the Internet to benefit from the use of the backup functionality of Chaganty thereby reducing the chances of client requests failing, and thereby eliminating single-point failure.

16. Claims 9, 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chaganty et al. (US 7,055,173) in view of Brendel et al. (US 5,774,660).

17. Regarding claim 9, Chaganty disclosed the limitations as described in claim 5. Chaganty did not explicitly state wherein said primary access device comprises domain name server relay and cache service, further comprising emptying said cache after said detecting of said failure in said primary connection.

In an analogous art, Brendel disclosed that DNS servers often cache results of DNS requests which were passed to other DNS servers for completion [DNS relay] (Brendel, col. 3, lines 40-43), and IP addresses can remain in a DNS server's cache [cache service] long after the server with the cached IP address is removed from service and the IP address of the removed server can continue to be assigned by the DNS server until the cached entry is replaced or flushed (Brendel, col. 3, lines 49-55). As such, one of ordinary skill in the art would have been motivated to empty the cache if a detection is made regarding a connection failing, because such cached results would result in failures as well.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine DNS cache flushing of Brendel with the failure detection mechanism of Chaganty in order to flush the DNS cache upon detection of a failure in connection such that users are not sent an IP address that corresponds to a crashed server, thereby more efficiently minimizing the number of requests resulting in a failure.

18. Regarding claim 15, Chaganty disclosed the limitations as described in claim 11. Chaganty did not explicitly state wherein said primary access device further comprises a domain name server relay.

In an analogous art, Brendel disclosed that DNS servers often cache results of DNS requests which were passed to other DNS servers for completion [DNS relay] (Brendel, col. 3, lines 40-43). See motivation above.

19. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chaganty et al. (US 7,055,173) in view of Milius et al. (US 7089324).

20. Regarding claim 16, Chaganty disclosed the limitations as described in claim 11. Chaganty did not explicitly state wherein said primary access device further comprises a DHCP server.

In an analogous art, Milius disclosed a system that assigns a new Internet gateway server when the currently assigned Internet gateway server is not connected to the local area network in which one ore more of the devices in the local area network serves as a DHCP server (Milius, col. 4, lines 10-20).

Both Chaganty and Milius disclosed teachings involving redirecting packets through a backup device when a default device is not part of the network (i.e. fails).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the DHCP service of Milius into

the teachings of Chaganty in order to be able to allocate and assign addresses to the nodes of the network in order to allow for the addresses of the computing devices within the local area network to be dynamically assigned thereby allowing for easier assignment of device address on the network.

Conclusion

Examiner's Note: Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory

period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Bret Dennison whose telephone number is (571) 272-3910. The examiner can normally be reached on M-F 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tonia Dollinger can be reached on (571) 272-4170. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/J. Bret Dennison/
Examiner, Art Unit 2143